

## April 2, 2015, City Arts Commission Comments

Comments submitted by: Jim Mosher ( [jimmosher@yahoo.com](mailto:jimmosher@yahoo.com) ), 2210 Private Road, Newport Beach 92660 (949-548-6229)

### Comments on Agenda

#### 1. Date:

At least in my view, the City Arts Commission has continuing problems complying with California's open meeting law for local agencies, the Brown Act.

As an example, the present agenda, although noticed as a "Special Meeting" (whose content is normally confined to a limited number of special topic(s) announced in the agenda) has every appearance of being a rescheduled Regular Meeting. This is disturbing because a fundamental reason for the enactment of the [original Brown Act](#) in 1953 was to ensure the regular meetings of public bodies would occur at predictable times and places. However, it is difficult to verify the present meeting deviates from the publicly expected schedule for the CAC because, although the Clerk's [webpage](#) describing the CAC says the meeting will come on "*The second Thursday each month, unless otherwise noticed,*" the [CAC By-laws](#) currently on file with the City Clerk specify no regular meeting date, time or place, even though [Section 54954](#) of the modern Brown Act continues to explicitly require this.

If there was a problem convening a quorum on the normally expected date, I would suggest the more proper procedure would have been to adjourn that meeting to a *later* date as provided for in [Section 54955](#). That way, those not paying attention to the CAC until the month's expected meeting date of April 9 would have had a chance to attend the rescheduled meeting, rather than learning the monthly meeting had already been held. Alternatively, the [March agenda](#) could have informed the public that there would be a discussion and vote on changing the date of the April regular meeting.

#### 2. Location:

- a. The agenda contains a minor typo: "*Newport Beach Public Library Conference Room (next to **Medai Media** Center)*"
- b. I also thought (possibly mistakenly) that the new room next to the Media Center was known as the "**Staff** Conference Room" to distinguish it from the one nearer to the Friends Room, where the CAC formerly met.
- c. Whatever the correct designation, had the CAC met on its "normal" date of April 9, there may have been a conflict with the City Planning Commission, which is scheduled to meet in the Council Chambers on that date starting at 6:30 p.m. I am not aware of any conflict with use of the Council Chambers on April 2.

**Item IV: Approval of Minutes – March 12, 2015**

Changes to the draft minute passages shown in *italics* are suggested in ~~strikeout~~ underline format.

Page 4, paragraph 3: “Josh Yocam commented on the vetting process and noted that the Foundation has received constructive input since ~~it~~ its very beginning.”

Page 5, Item 2, paragraph 2: “Discussion followed regarding reinforcing the ~~dire~~ requirement to have extremely weather-resistant pieces submitted.” [? I’m not sure if this is a typo, but the word “dire” seems out of place. Wouldn’t the sentence read better without it?]

Page 6, Item 1, paragraph 1: “... but the piece would not be brought to the site until late, April.” [the comma is unnecessary and should be deleted]

Page 9, Item VI, paragraph 1: “Vice Chair Greer requested adding donation of art from Diane and Gene ~~Crane~~ Crain to the Arts Commission agenda in April.”

Page 9, Item VI, paragraph 3: “Library Services Director Tim Hetherton noted previously asking to seek a quote for the restoration of the Seagulls in Flight ...”

**Item V.A.2: Financial Report**

It is good of staff to disclose what is essentially the “warrants list” of charges against the various arts accounts in such detail. However, the purpose of many of the transactions is not self-explanatory, and I cannot recall when or how the Commission authorized most.

Some specific comments:

1. It would be helpful for the transaction dates to be listed in strictly chronological order. It also seemed to me it might be helpful include the year of each, but since the “Date” column heading implies the listing is for Fiscal Year 2014-15, I assume any entry for a month greater than 6 is in 2014 and any month less than 7 is in 2015.
2. **Programming:**
  - a. Towards the bottom of page 1, starting on 11/19, and then for 7/16 through 9/24, there are five entries for “staff @ event.” Since City staff time doesn’t normally seem to be charged to these accounts, how is it decided when it is? And why is a specific employee listed as if he was an outside contractor (hiring City employees for additional “outside” jobs is generally frowned upon by Council policy)?
  - b. Following that, I assume the “**NDM** Comm. Credit” on 3/20 refers back to the “**NBM** Communication” charges earlier on the page, although I remain clueless as to what they did or why a credit was due.
  - c. Although a small expense, the \$97 paid for programming at the Segerstrom memorial (at the bottom of page 1) is puzzling. Did staff pay to advertise City programming there?

**3. Professional Services:**

- a. On page 2, “**NBM** Communication,” whatever they do, has become “**NDM** Communication” again. Curiously, no entity bearing either name appears to be [licensed](#) to business in Newport Beach.

**4. Sculpture Garden:**

- a. Item V.A.3 mentions the initiation of “Round 2” which apparently will again involve Arts OC, but I have trouble keeping track of how this is being funded.
  - i. As Item 15 at its [July 23, 2013](#), meeting the City Council approved the [transfer](#) of \$125,000 from the General Fund into the Line Item 8080 (“Services – Professional & Technical NOC”) of the Cultural & Arts division of the FY2013-14 budget for the first round of 10 sculptures, with an anticipation that the same amount would be needed again in “FY14” (presumably a typo of “FY15”).
  - ii. The City Manager, effective Dec. 9, 2013, signed contract C-5672 (no longer available [online](#)) not to exceed \$118,730 with Arts OC for costs associated with the first 10 sculptures. That contract apparently terminated on November 30, 2014.
  - iii. Of the \$125,000 allocated in July 2013, only \$20,672 seems to have been spent (per the July 10, 2014, [financial report](#) to the CAC), with the remainder presumably returned to the General Fund.
- b. The present accounting suggests that through November 2014, out of the \$125,000 in the FY2014-15 budget for Round 2, \$75,388.50 of outside expenses had been paid towards Round 1, leaving just \$49,611.50 for Round 2. Since Round 1 appears to have involved  $\$20,672 + \$75,388.50 = \$96,060.50$  in outside expenses, prior to a new allocation on July 1 in the FY2015-16 budget it looks like the amount remaining for Round 2 may be only about half what is needed.

***Item V.A.3. Cultural Arts Activities***

1. The way in which the Commission selects the sequence and duration of exhibitions presented on its behalf in the Central Library remains unclear to me, since I don’t recall any decision items about this coming before the Commission (but that may just be my poor memory).
2. The announcement that the call of entries for Round 2 of the Sculpture in the Civic Center Park exhibition has been initiated is disappointing in that there is no evidence any lessons have been learned from last year’s experience, in which many members of the public wondered both about the choices, how they were chosen, and why they were not allowed a role in the process. In addition, it is unclear under what contract and under what terms Arts OC is again involved. I had hoped for a more public process this time.

### ***Item V.B.1. Diane and Gene Crain Donation of Brandt Art***

The “*in Honor of Joan Brandt Scarboro and Clark Scarboro*” aspect of this donation is not clearly explained. What is their involvement in this donation, and what are they being recognized for? Will the proposed plaque list both the donors and their honorees? Will this limit the City’s right to control requested dedicatory plaque content in the future?

This item also begs the question of what has become of the Commission’s recommended revisions to City Council Policies I-9 (“Art in Public Places”) and I-11 (“Donation of Art to City of Newport Beach”), since the versions currently [posted](#) by the City Clerk remain those from 2003. If that is part of their request, the Crains’ condition that their donations be *permanently* displayed in the Central Library, or perhaps even at a specific location in the Library, could not be honored without waiving the existing Policy I-11.

### ***Item V.B.2. Joe Lewis and Bea Riley Fine Art Exhibitions***

I personally like the samples of the two artists’ work, but this doesn’t strike me as a very public selection process if other applications were received.

I think it would be considerably more democratic if the Fine Arts Ad Hoc Subcommittee presented to the Commission as a whole *all* the applications received, with a recommendation on each.

It might also have been helpful for the staff report to update the Commission on the size of the current backlog of artists who have been approved for future exhibition.

Finally, since as described in the staff report the Fine Arts Ad Hoc Subcommittee seems to have met and had a continuing purpose for many years, I don’t think it meets the criteria of a truly ad hoc advisory committee free from Brown Act meeting requirements.

### ***Item V.B.3. Quote for Restoration of the Seagulls in Flight Sculpture***

This item would seem to have relevance to the Commission’s consideration of the Ben Carlson proposal.

Fifty-five years after the event, when the immediate pain has lessened and recollections of the person being honored fade, a well-intentioned memorial falls into disrepair. At least to me, that argues for something of timeless simplicity that can continue to stimulate the desired thoughts with a minimum of maintenance and without a reliance on personal memories of a specific event or person.